IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2594 OF 2005

Vithalnagar Co-op. Hsg. Soc. Ltd.
& anr. ..Petitioners.

Vs.

The Divisional Joint Registrar
of Co-op. Societies & Ors. ..Respondents.

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Ms.Rajani Aiyar i/b M/s.K.V.Aiyar & Associates for the Petitioners.

Mr.P.K.Dhakephalkar with Mr. Kirit J. Hakani for Respondent Nos.3 to 5.

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**CORAM : DR.D.Y.CHANDRACHUD, J.**

29th April, 2005.

P.C. :

Bye-law 7 of the Bye-laws governing the Petitioner which is a co-operative housing society inter alia provides thus :

"A person may be admitted as a nominal

> member on payment of Rs.5/- only as entrance fee. A nominal member is one who is admitted as such for the purpose of joint-holding of shares along with an ordinary member and shall exercise no rights or receive no advantages as a nominal member unless otherwise specifically provided for under these by-laws."

There can be no objection to the enrollment of the Fifth Respondent as a nominal member under Bye-law 7, the Fifth Respondent being the husband of the Third Respondent and the father of the Fourth Respondent, who are joint members of the co-operative society. Counsel for the Petitioners fairly stated that there can be no objection to the enrollment of the Fifth Respondent as a nominal member and that the society has maintained this position. The incidents of nominal membership are unquestionably those which are recognized by law. In this view of the matter, it is not necessary to interfere with the impugned order dated 7th March, 2005 of the Divisional Joint Registrar by which it confirmed the direction of

the Deputy Registrar, Co-operative Societies, K-West Ward, Mumbai. However, it is clarified that the enrollment of the Fifth Respondent shall be as a nominal member under bye-law 7. Counsel for the Third, Fourth and Fifth Respondents is also agreeable to a direction in the aforesaid terms. The Petition is accordingly disposed of.